

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF DESIGN PROFESSIONALS
1511 PONTIAC AVENUE, BLDG. 68-2
CRANSTON, RI 02920**

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MINUTES

**BOARD OF EXAMINATION AND
REGISTRATION OF ARCHITECTS**

DATE: March 11, 2009

PLACE: Department of Business Regulation (DBR)

**1511 Pontiac Avenue, Bldg 69-2 Conference Room
Cranston, RI 02920**

MEMBERS PRESENT: Dana A. Newbrook, Wilbur E. Yoder, James R. Carlson, Joseph A. Cirillo, and Barbara Feibelman

MEMBERS ABSENT: None

**OTHERS PRESENT: Richard W. Bertein, DBR Executive Counsel
 Brian J. Riggs, DBR Department Budget Administrator
 Dawne Broadfield, Board Executive**

CALLED TO ORDER: Chair Newbrook called the meeting to order at

1:00 p.m. to commence Board business.

Attorney Bernstein and Mr. Riggs left at 2:40 p.m.

MINUTES OF THE MEETING OF THE BOARD

(1) Vice-Chair Yoder moved to approve the open meeting minutes of February 11, 2009 as published. Ms. Feibelman seconded. Secretary Carlson abstained due to not being present at that meeting. Motion approved.

(2) Vice-Chair Yoder moved to approve and seal the executive session meeting minutes of the February 11, 2009 as published. Ms. Feibelman seconded. Secretary Carlson abstained due to not being present at that meeting. Motion approved.

EXECUTIVE SESSION

(1) Secretary Carlson moved to convene into executive session at 1:03 p.m. pursuant to RI General Laws, §42-46-5 (a)(2) for sessions or work sessions pertaining to collective bargaining or litigation and §42-46-5 (a)(4) for investigative proceedings regarding allegations of civil or criminal misconduct. Vice-Chair Yoder seconded. Motion approved.

(2) Secretary Carlson moved to adjourn from executive session and to reconvene to an open meeting at 1:15 p.m. pursuant to R.I.G.L. §42-46-4. Vice-Chair Yoder seconded. Motion approved.

(3) Secretary Carlson moved to seal the executive session and record the votes taken in executive session pursuant to RI General Laws §42-46-4 and §42-46-5. Vice-Chair Yoder seconded. No votes were recorded at this time. Motion approved.

(4) Secretary Carlson moved pursuant to RI General Law §42-46-4 that the Board defer disclosure of all votes in executive session until such time as such disclosure would not jeopardize any strategy, negotiation, or investigation undertaken concerning RI General Law §42-46-5(a). Vice-Chair Yoder seconded. Motion approved.

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OLD BUSINESS

(1) Discussion on Proposed Amendments to the “Rules and Regulations”

(a) Pre-Set Fine Amounts for Violations

Per the last meeting, Mrs. Broadfield redrafted the Disciplinary Guidelines for Administrative Fines and Penalties by eliminating the three (3) offense columns and replacing with two (2) range columns consisting of “fine” and “penalties.” A sentence was also added to the introductory language to read as follows: “The licensee’s prior record will be taken into account by the Board in determining what fines and/or penalties will be accessed.”

This draft was reviewed and discussed. Several changes were suggested and are listed as follows:

(1) The “title” has been changed as follows: Disciplinary Guidelines for Administrative Fines and Penalties.

(2) The “introductory” language will read as follows:

“Disciplinary Guidelines for Administrative Fines and Penalties” have been established and are outlined below to give notice to licensees of the range of possible actions, administrative fines, and/or penalties which will normally be imposed upon violation of the Rhode Island General Laws and/or Rules and Regulations of the Board of Examination and Registration of Architects (the “Board”). The licensee’s prior record and the underline circumstances will also be considered reviewed taken into account by the Board in determining the extent of actions, what administrative fines and/or penalties will be accessed.

(3) The “Rule, Range of Fines and Range of Penalties” will read as follows:

(1) Under Rule 3. Applications:

(a) Falsification of Any Application Also 8.3.3, the “Range of Penalties” was changed to: Reprimand, Suspension Denial,

Revocation

(b) Failure to Identify Previous Disciplinary Action, the “Range of Penalties” was changed to: Reprimand, Suspension, Denial, Revocation, Requirement to Report In-State Practice.

(2) Under Rule 4. Examination:

(a) Falsification of record, IDP, etc, the “Range of Fines” was moved from the “Range of Fines” to the “Range of Penalties”. The “Range of Penalties” will read as follows: Stop Exams, and Correct Record, 6-month Delay – 5-year Delay, Deny Initial Registration.

(b) Exam cheating, the “Range of Fines” was moved from the “Range of Fines” to the “Range of Penalties”. The “Range of Penalties” will read as follows: NCARB Penalty, 12-month Delay – 5-year Delay, Deny Initial Registration.

(3) Under Rule 5. Practice:

(a) Practice without RI License (Licensed in Another Jurisdiction), the “Range of Fines” were changed from \$1000 - \$1500 to Consent Order and the “Range of Penalties were changed from Reprimand, Probation, Revocation to Refer to Attorney General.

(b) Practice without any Active License (Previously Licensed Anywhere), the “Range of Fines” was changed from \$1000 - \$1500 to Consent Order and the “Range of Penalties was changed from Reprimand, Suspension, Revocation to Reprimand, Refer to Attorney General.

(c) Falsification of CE Credits, the “Range of Fines” was deleted \$500 - \$1000 and the “Range of Penalties” was changed to Suspension, Revocation, Reprimand and Correction in 90 Days.

(4) Under General Laws, Title 5, Chapter 1

(a) §5-1-13(8)...Felony, etc, the “Range of Penalties” was changed to read as follows: Probation, Suspension, Denial or, Revocation See 8.1.1

**(b) Felony related to Practice of Architecture, the “Range of Penalties was changed to read as follows: Suspension, Denial or Revocation
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(c) §5-1-13(9)...Failure to Furnish, the “Range of Penalties” was changed to read as follows: Suspension, Denial or Revocation

(d) §5-1-13(11)...Injurious to Profession, the “Range of Penalties” was changed to read as follows: Suspension, Denial or Revocation

Mrs. Broadfield will redraft the Disciplinary Guidelines based on discussion for review at the next meeting. The Board will also ask NCARB whether violations, such as cheating on exams, will appear in a candidate’s record for the Board’s consideration of licensure.

(B) Certificate of Authorization (COA) Requirement (Liability Insurance)

Donald Goodrich, Goodrich Blessing, will appear at 2:00 p.m. to discuss the availability and affordability of professional liability insurance.

Mr. Donald Goodrich did not appear. The Board will contact him to inquire whether or not he will appear at the next meeting.

(2) Record Retention Schedule

Mrs. Broadfield updated the Board and indicated that the Division of Design Professionals has not met with Shirley DosSantos, Project Coordinator, to date. Mrs. Broadfield did inform the Board that all of the records for the Division of Design Professionals are being stored at Capitol Records and are categorized under a “permanent” category approved by the Rhode Island Secretary of State. This process was done in order to send the records to Capitol Records for storage as a result of the move to DBR. Therefore, the Division of Design Professionals does have part of the process accomplished but not the whole process.

(3) Meeting with the Board(s), State Building Code Commissioner, and the Building Officials – (Held Annually in September)

The Building Officials meet the last Thursday of the every month. Chair Newbrook and Mr. Cirillo will contact John Leyden, State Building Code Commissioner, to request to be placed on the agenda to discuss what is required per the Architect statute. Therefore, this has been continued.

(4) 2009 Legislative Session – General Law Changes - Administrative Hearing Process

Attorney Bernstein updated the Board that DBR introduced two (2) bills

from the Director's office that he is testifying in support of tonight.

The first bill would enable DBR to require email addresses from all licensees with a waiver for hardships, so that DBR can go to a paperless environment. Attorney Bernstein told the Board that he testified before the Senate with no objections and will be testifying before the House tonight.

The second bill would establish consistency in Administrative Processes and Procedures within DBR for all of its Boards and Commissions. Attorney Bernstein told the Board that he is going to testify in support and he understood that Secretary Carlson, as an individual, will be testifying in opposition. Attorney Bernstein told this Board that the Engineers and the Landscape Architects Boards have no objection and the Land Surveyors Board affirmatively supports this legislation.

The Board asked the need for this legislation. Attorney Bernstein referenced the case that was previously presented to the Board, Arnold vs. Lebel, which indicates that hearing officers can have no contact whatsoever with anyone involved in an administrative hearing process.

Ms. Feibelman stated that this legislation will indicate that if the Board performs both functions, then the case is tainted. Attorney Bernstein stated that was correct. Secretary Carlson stated that the

Board never performed both functions. The Board has had in the past an investigator who recuses himself/herself from the case and the Board has no knowledge other than what is brought before them on the case by the investigator. Attorney Girard Visconti wrote the procedures for this Board to follow since the Board did not have anything in writing prior to a major case that was before this Board.

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Attorney Bernstein stated that the way that the law is written it indicates that the DBR Director has to act in conformity with every Boards' and Commissions' best interest. Secretary Carlson asked what the appeal was after a decision was made and if it was still Superior Court. Attorney Bernstein replied that it is.

Attorney Bernstein stated that this legislation will standardize the fact that DBR has different Boards and Commissions and it was written so that the language would not affect whatever future the Design Professionals may have. Secretary Carlson felt that this is the right place for the Design Professionals to be. Secretary Carlson also assumed that the other Boards and Commissions apparently never had the responsibility that this Board had under our law. Attorney Bernstein stated that was correct.

Secretary Carlson stated that assuming this legislation passes this Board would have to revise its law and Rules and Regulations. Ms.

Feibelman stated that if this legislation does pass, then it would override this Board's current law which is not fair to this Board's registrants. Attorney Bernstein then suggested that the Board send out an Informational Bulletin to all of the registrants indicating the changes.

Ms. Feibelman felt that was not the right approach because if the legislation does pass, the Board's law and Rules and Regulations should be consistent so that a registrant researching the law can go to just one place. These procedures are explained in the law, §5-1-13.1, and in the Rules and Regulations.

Secretary Carlson stated that since the Board is happy with this, he will not go and testify in opposition and Attorney Bernstein will be by himself.

Attorney Bernstein will work with the Board to make these changes for the next legislative session. The changes to the law will be put on the June 2009 agenda for discussion.

BLUE BOOKS (RECIPROCITY)

(A) Vice-Chair Yoder moved to approve the following Blue Books as submitted with an expiration date of December 31, 2009. Secretary Carlson seconded. Motion approved.

- (1) BAKER, William Allison (6) LARA, Robert J.**
(2) DILULLO, Daniel F. (7) POINELLI, Philip J.
(3) GNICH, Jason D. (8) SHAMAMIAN, Oscar
(4) JANSSEN, Michael T. (9) SILVERMAN, AIA, Lawrence E.
(5) KRAEMER, Monika Paije (10) SWART, Dennis J.

(B) Vice-Chair Yoder moved to continue the application for Brent T. Heinzer for resolution of the pending matter with the State of Massachusetts for practicing without a registration. Ms. Feibelman seconded. Motion approved.

CERTIFICATES OF AUTHORIZATION (COA) APPLICATIONS (See Attached List)

(A) Secretary Carlson moved to approve the application for the Certificate of Authorization for the Sole Proprietorship for Ruth Kositsky as submitted. Vice-Chair Yoder seconded. Ms. Feibelman recused. Motion approved.

(B) Secretary Carlson moved to deny the application for the Certificate of Authorization for the Sole Proprietorship for Fine Associates due to the plural of “Associates” in the firm name with only one architect on staff and to reapply by changing the name of the firm or by hiring someone as submitted. Vice-Chair Yoder seconded. Ms. Feibelman recused. Motion approved.

(C) Secretary Carlson moved to deny the renewal application for the Certificate of Authorization for the Sole Proprietorship for J. Christopher Architect due to the firm name not matching the architect's name according to the Rules and Regulations, Section 5.5 of the Board. Vice-Chair Yoder seconded. Ms. Feibelman recused. Motion approved.

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(C) Secretary Carlson moved to approve, after the review of the disciplinary action noted, the renewal application for Certificate of Authorization for the Sole Proprietorship #A-10,447 for Mark Comeau, Architect as submitted. Vice-Chair Yoder seconded. Motion approved.

(D) Secretary Carlson moved to approve, after the review of the disciplinary action noted, the renewal application for Certificate of Authorization for the Sole Proprietorship #A-10,145 for Stephen R. Nelson d/b/a Nelson Associates as submitted. Vice-Chair Yoder seconded. Motion approved.

(E) Secretary Carlson moved to approve the renewal application and back fees received for the application for Certificate of Authorization for the Corporation for Elkus Manfredi Architects Ltd, #A-14,159, as submitted. Vice-Chair Yoder seconded. Motion approved.

(F) Secretary Carlson moved to approve the renewal application and back fees received for the application for Certificate of Authorization for the Corporation for Ellenzweig Associates, Inc., #A-14,299, as submitted. Vice-Chair Yoder seconded. Motion approved.

(G) Secretary Carlson moved to approve the application for the Certificate of Authorization for the Corporation for Watermark Environmental Incorporated as submitted. Vice-Chair Yoder seconded. Ms. Feibelman recused. Motion approved.

(H) Ms. Feibelman moved to send a letter advising to appear before the Board at the next meeting on April 8, 2008 at 2:00 p.m. to discuss their Certificate of Authorization initial application in light of the practice for a US Postal Service in Rhode Island for the Certificate of Authorization for the Corporation for McKinnell McKinnell & Taylor as submitted. Vice-Chair Yoder seconded. Motion approved.

(I) Secretary Carlson moved to approve the withdrawal the application for the Certificate of Authorization for the Corporation for Belanger & Foley, Inc. as submitted. Vice-Chair Yoder seconded. Ms. Feibelman recused. Motion approved.

NEW BUSINESS

(1) New England Conference of Architectural Registration Boards (NECARB)

The NECARB Joint Spring Meeting will be held March 19 through 22, 2009 in Savannah, GA with Regions 1, 2 and 3.

The nomination of the slate of officers of NECARB, Region 1, was discussed and is as follows:

Secretary/Treasurer: Rob Meyer

Regional Chair: Chris Williams

Regional Director: Margo Jones or Ed Jeter

The Board directed Chair Newbrook to vote his conscious.

(2) National Council of Architectural Registration Boards (NCARB) 2009 Annual Meeting

Discussion occurred about who will be attending. The “Resolutions” will be placed on the May Board’s agenda for discussion in order to decide on how to vote.

(2) Certificate of Authorization (COA) Lapsed Letter sent out to those firms that did not renew by the December 31st deadline.

(A) Chair Newbrook told the Board that he spoke to Richard Long,

who holds a COA for a Sole Proprietorship #A-10,124. Mr. Long questioned whether or not the Board should be disciplining him because he was late in submitting his COA renewal application. Chair Newbrook told the Board that Mr. Long was disgruntle when he telephoned the Board but after his telephone conversation with Mrs. Broadfield, he had calmed down. Mrs. Broadfield asked Chair Newbrook to call and speak with Mr. Long. Chair Newbrook did. Mr. Long was very understanding and was very complimentary of Mrs. Broadfield's actions on the telephone.

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(B) Mr. Long also asked the Board to review the language of the COA lapsed letter because he did not like the tone of the letter. Chair Newbrook stated that Mrs. Broadfield review the letter with him and found out what it is and that it is primarily the last paragraph by "bolding" the typeface. Chair Newbrook felt that it is shouting. Chair Newbrook felt that the Board can calm that down.

The Board did review the COA lapsed letter and the comments are as follows:

(a) In the first paragraph, changes were made as follows: "A review of the records of the Rhode Island Board of Examination and Registration of Architects (the "Board") indicates that your firm's renewal for a Ccertificate of Aauthorization (COA) has NOT been granted renewed by this Board. The reason for the failure to issue this renewal is that you have failed to complete the renewal process

as directed by this Board.

(b) In the third paragraph, changes were made as follows: “Due to the expense of multiple mailings, this will be the last written you will receive on this subject matter from this Board.” “The expense of continuously sending out documents can no longer be borne by the Board.”

(c) The last paragraph was changed as follows: “If you have any questions, please feel free to contact this the Board’s office staff.”

(d) The paragraph order was changed.

Corrections will be drafted and placed on the agenda for review at the next meeting.

ADJOURNMENT

Chair Newbrook announced that the next meeting of the Board is scheduled for April 8, 2009 at 1:00 p.m. at 1511 Pontiac Avenue,

Conference Room 69-2, Cranston, RI 02920. Secretary Carlson moved to adjourn the meeting at 3:23 p.m. Vice-Chair Yoder seconded. Motion approved.

Respectfully submitted,

James R. Carlson, NCARB, AIA

Secretary

JRC/dmb

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C. O. A. APPLICATIONS

Board Meeting of MARCH 11, 2009

SOLE PROPRIETORSHIPS

**FINE ASSOCIATES \$100. DENIED – 03/11/09 – DUE TO PLURAL OF
Questioned the Plural of “Associates” – “ASSOCIATES” IN THE
FIRM NAME WITH ONLY ONE**

**See Response Attached. ARCHITECT ON STAFF – CHANGE
APPLICATION.**

MARK COMEAU, ARCHITECT \$25. APPROVED – 03/11/09

A-10,447 – Disciplinary Action Noted.

**DENIED – 03/11/09 – DUE TO THE FIRM NAME NOT
J CHRISTOPHER ARCHITECT \$25. MATCHING THE ARCHITECT’S
NAME ACCORDING TO**

**A-10,712 – Representation prior to be Registered. THE RULES AND
REGULATIONS, SECTION 5.5**

**RUTH KOSITSKY - 0 - APPROVED – 03/11/09 – MS. FEIBELMAN
RECUSED.**

STEPHEN R. NELSON d/b/a \$50. APPROVED – 03/11/09

NELSON ASSOCIATES

A-10,145 – Disciplinary Action Noted.

LIMITED LIABILITY COMPANIES

CORPORATIONS

ELKUS MANFREDI ARCHITECTS LTD. \$225. APPROVED – 03/11/09

A-14,159 – Expired 12/31/06 – Requesting Reinstatement

Submitted current and back fees

ELLENZWEIG ASSOCIATES, INC. \$325 APPROVED – 03/11/09

A-14,299 – Expired 12/31/04 – Requesting Reinstatement

Submitted current and back fees –

Change in Responsible Control -

Removed: Harry Ellenzweig - Added: Michael Lauber

**MCKINNELL MCKINNELL & TAYLOR \$100. 02/11/09 – APPL BEING
HELD FOR CLARIFICATION**

**Answered “Yes” to “Solicited Architectural Work OF WHAT
AUTHORITY THE CORP PRACTICED**

**Prior to having been licensed.” ARCHITECTURE ON A FEDERAL
BASIS WITHOUT**

BEING REGISTERD TO DO SO.

**03/11/09 – SEND LTR INVITING THEM TO APPEAR
AT NEXT MEETING 04/08/09 AT 2:00 P.M. IN LIGHT
OF PRACTICE AT THE US POSTAL SERVICE IN RI**

**WATERMARK ENVIRONMENTAL \$100. APPROVED – 03/11/09
INCORPORATED**

WITHDRAWAL

**BELANGER & FOLEY, INC. \$100. APPROVED – 03/11/09
Applying under Watermark Environmental Incorporated -
Listed above**

03/11/09

